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Chairman: Mr. ZARIF (Islamic Republic of Iran)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 131: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-FIFTH SESSION (continued) (A/47/17, A/47/454)

1. Mr. JAREŠ (Czechoslovakia) said that, in general, his delegation agreed with the conclusions and recommendations contained in the report of the United Nations Commission on International Trade Law (UNCITRAL) (A/47/17).

2. The adoption of the Model Law on International Credit Transfers represented an important achievement. His country was interested in the uniformity of the law applicable in that area, and it would take the Model Law provisions into account when revising its legislation. With respect to model laws already adopted, it recommended that a working group of the Commission should study the legislation and practice of States in order to identify possible amendments that would promote the harmonization of national legislation.

3. The Legal Guide on International Countertrade Transactions was an excellent document, and Czechoslovakia had already taken steps to bring it to the attention of those concerned. However, since countertrade transactions were not in full conformity with the notion of free competition on international markets, that practice should not be too much encouraged.

4. His delegation supported the recommendation of the Commission to investigate further the legal problems of electronic data interchange and to promote cooperation among the Secretariat, the Economic Commission for Europe, the European Communities and the International Chamber of Commerce.

5. As far as case law on UNCITRAL texts was concerned, he said that his country was establishing mechanisms for obtaining the necessary materials for contributing more constructively to the collection of information.

6. He welcomed the convening of the Fifth UNCITRAL Symposium on International Trade in June 1993 as a part of training and assistance activities. In that connection, the Congress on International Trade Law, held in May 1992, had provided an opportunity to assess the process of harmonization and unification of the rules governing world trade and to seek up-to-date information on the principal relevant legal texts.

7. Mr. NIELSEN (Denmark), speaking on behalf of Denmark, Finland, Iceland, Norway and Sweden, said that the Nordic countries wished to express their appreciation for the comprehensive report presented by the Chairman of UNCITRAL. It was appropriate on that occasion to reaffirm that the work of UNCITRAL was relevant, important and, above all, useful.

(Mr. Nielsen, Denmark)

8. During the twenty-fifth session, two significant tasks had been completed: the Model Law on International Credit Transfers and the Legal Guide on International Countertrade Transactions. Given the benefits for business of uniform rules and practices, there was no doubt that the Model Law would be the object of exhaustive studies in the various countries.

9. As for the Legal Guide, the Nordic countries appreciated the work accomplished. Their attitude towards the Guide was a constructive one, and they would give it wide distribution. However, he wished to express some reluctance with regard to the practice of countertrade. Even if countertrade might be useful in improving trade and development in certain cases, in general it tended to distort market conditions to the detriment of productivity. On the other hand, countertrade was a reality, and it was good to have a legal guide in that field.

10. Lastly, the Nordic countries wished to voice their satisfaction that, over the past couple of years, the number of States having ratified or acceded to the Convention on Contracts for the International Sale of Goods had increased to 34.

11. Ms. GUEFT (United States of America) commended UNCITRAL for its work during its twenty-fifth session. The Commission continued to focus on very useful topics and to conduct its work in a non-politicized manner. With regard to that work, three items were of particular note: first, the completion of the Legal Guide on International Countertrade Transactions and the Model Law on International Credit Transfers; second, the convening of the UNCITRAL Congress on International Trade Law in May 1992 and, third, the completion by a working group of a draft Model Law on Procurement.

12. With respect to the Legal Guide, while the United States was aware of the distortions that could occur in trade patterns, it recognized the apparent need of a number of countries for this method of conducting trade. The publication of the UNCITRAL Guide would fill a major gap, since participants in counter trade had very little printed material on the subject. It was important for the Legal Guide to be published and distributed in an appropriate manner through the United Nations system.

13. The Model Law on International Credit Transfers was a ground breaker with respect to the development of international commercial methods that drew on new electronic and computer technologies. The advent of these new systems had, for the first time, made it possible to handle large volumes of transactions quickly, surely and very cheaply. Her delegation noted that the rules reflected the realities of changing banking practices and were designed to facilitate commercial transactions. In addition, the completion of the Model Law represented a new approach to harmonizing international trade law. It denoted the development of legal norms before, rather than after, conflicts arose between national laws and decisions. Thus, instead of trying to harmonize conflicting legal systems, the Model Law provided the means whereby the United Nations system could anticipate the necessary commercial rules.

(Ms. Gueft, United States)

14. The United States also supported the development by UNCITRAL of a Model Law on Procurement, which accounted for a significant portion of international commercial transactions. The development of special laws governing that activity was relatively new, and many countries had not yet adopted any such laws. However, their harmonization was important to the orderly development of international trade, as was demonstrated by the guidelines established by the General Agreement on Tariffs and Trade (GATT) and other organizations. The draft Model Law on Procurement would be submitted to UNCITRAL at its 1993 session, at which point it would probably be completed. She was pleased to note that the UNCITRAL draft Model Law had been highlighted at a recent meeting in Washington chaired by staff of the Office of the President for the purpose of coordinating United States procurement activities overseas, and she hoped that other Governments would adopt similar measures.

15. The Congress on International Trade Law held in May 1992 had been especially useful in its exploration of how the United Nations and other international organizations had been able to make progress in the field of private law unification, thereby providing guidance for future work.

16. The United States commended the work of the UNCITRAL working group which was considering the possibility of developing general principles relating to electronic data interchange in order to ascertain whether such rules could facilitate new uses of commercial technology before conflicts arose between national laws in that sphere.

17. The United States also considered that UNCITRAL should keep on its agenda the question of the rationalization of its work, as was reflected in General Assembly resolution 46/56 of 9 December 1991, in order to facilitate consideration of ways of improving its working methods, but shared UNCITRAL's view that for many reasons, reflected in its report, it would not be judicious to hold consecutive meetings.

18. The Department of State intended to seek authority from the United States Senate to ratify the United Nations Convention on the Limitation Period in the International Sale of Goods and its 1980 Protocol, and the United Nations Convention on International Bills of Exchange and International Promissory Notes.

19. Mr. DASTIS (Spain) said that it was customary to begin the work of the Sixth Committee with consideration of the report of UNCITRAL and that that always struck a positive note. The success of UNCITRAL's work was due to its judicious choice of issues appropriate to the uniform development of international trade in two main areas - meeting the challenges of technology and devising ways of overcoming the difficulties arising from the differences between countries' legal systems and levels of economic development. The Model Law on International Credit Transfers lay within the first of those areas and the draft Legal Guide on International Countertrade Transactions, the second.

(Mr. Dastis, Spain)

20. UNCITRAL's working methods could serve as a model for other United Nations bodies concerned with the development and codification of international law. Its methods were characterized primarily by: (a) a practical approach to the selection of topics and wide participation in that selection; (b) flexibility in the drafting of texts, subordinating the final form to content requirements; (c) close coordination with other organizations specializing in the issues under consideration and concerned with international trade law, thereby avoiding duplication and conflicts; and (d) continued attention to texts already adopted.

21. Those working methods had amply demonstrated their effectiveness and could be applied to other spheres of international law, particularly in connection with the United Nations Decade of International Law. For that reason, his delegation accepted UNCITRAL's conclusions on possible ways of improving and rationalizing its working methods and, in particular, the conclusion that it was impracticable for its working groups to hold consecutive meetings.

22. Finally, there must be continuous participation by the developing countries in UNCITRAL's deliberations. The future success of its work depended thereon.

23. Mr. POLITI (Italy) expressed his delegation's deep appreciation of the results of UNCITRAL's twenty-fifth session and, in particular, the adoption of the Model Law on International Credit Transfers and of the Legal Guide on International Countertrade Transactions. UNCITRAL's work was particularly commendable in view of the complexity of the issues and the differences of opinion on the subject.

24. His delegation was also fully appreciative of the progress made in the development of legal rules on electronic data interchange and the draft Model Law on Procurement and the draft uniform law on guarantees and stand-by letters of credit. He was confident that the working groups entrusted with those tasks would proceed with their work expeditiously and with their usual skill and competence.

25. Finally, his delegation was particularly satisfied with the intensive work carried out in connection with UNCITRAL's training and assistance programme, which was very important in increasing awareness of the Commission's work and legal texts. It hoped that seminars and symposia could be held in the future in cooperation with other international organizations working towards the harmonization and unification of law, such as UNIDROIT and the Hague Conference on Private International Law.

The meeting rose at 3.45 p.m.